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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,768	04/02/2002	Masaru Haruta	1090-02	2667

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EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/089,768	<b>Applicant(s)</b> HARUTA ET AL.	
	<b>Examiner</b> John J. Guarriello	<b>Art Unit</b> 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 21 and 23-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22 is/are rejected.
- 7) ☒ Claim(s) 21 and 23-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3/03.                      6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 21, 23-25 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and/or cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 21, 23-25 have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 5, 7, 8, 12, 13, 17-19, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Naka et al. 4,429,000.

Naka describes a moisture permeable waterproof coated fabric with a microporous polyurethane layer (which corresponds to the claimed

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waterproof layer) applied to the base fabric, (see abstract; column 1, lines 10-15, lines 39-43). Naka describes to the waterproof layer (polyurethane layer resin) can be applied a synthetic polymer in dotted or linear form, (column 5, lines 50-57). Naka describes the synthetic polymer can be acrylic polymers which correspond to the claimed invention, (column 6, lines 15-34). Naka describes the moisture permeability to be not lower than 2500 g/square meter.24 hrs., (column 7, lines 65-68). Naka describes the amount of the resin composition applied to the base fabric in Example 1, (column 9, lines 54-65).

JP'779 describes the essential limitations of the claimed invention.

Claims lack novelty.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 4, 6, 9, 10, 11, 14-16, 20, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naka et al. 4,429,000 in view of GB 2 316 341.

Naka as above in paragraph # 3 with the differences being the values of water pressure resistance, average coefficient of friction, weight distribution, and stated sealing tape. Naka further describes the waterproof moisture permeable fabric can be used for clothing sports wear, jackets, windbreakers, ski wear, coldproof clothes, rain wear, work clothes, tents, canvas shoes, and diaper covers, (column 9, lines 40-46).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to adjust the values stated above in this paragraph motivated with the expectation that properties of water penetration of the layers would be minimized since it has been held that discovering the optimum value involves only routine skill in the art, *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding the adhesive tape, GB'341 describes the use of a hot melt adhesive layer to provided a good seal for the intermediate layer

which one of ordinary skill in the art would employ to give good seam sealing properties, (page 13, lines 2-20).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

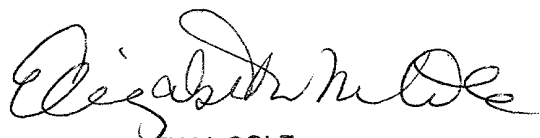
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello  
Patent Examiner  
Art Unit 1771

September 17, 2003



ELIZABETH M. COLE  
PRIMARY EXAMINER